

OCT-18-2004 11:09

EXPRESS MAIL NO. EV335610836US

P.02/03



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Berenson
Application No.: 09/864,930
Filed: May 24, 2001
For: METHODS FOR RESTORING OR ENHANCING T-CELL
IMMUNE SURVEILLANCE FOLLOWING NATURALLY OR
ARTIFICIALLY INDUCED IMMUNOSUPPRESSION

Examiner : Gerald R. Ewoldt
Art Unit : 1644
Docket No. : 980034.415

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF RONALD J. BERENSON, M.D.

UNDER 37 C.F.R. § 1.132

I, Ronald J. Berenson, a citizen of the United States, declare and state that:

1. I am President, Chief Executive Officer and Founder, at Xcyte Therapies in Seattle, Washington, United States, and inventor in the above-identified patent application (hereinafter referred to as "instant application").

2. I have reviewed the Office Action dated June 17, 2004 and the Examiner's rejection of claims 6-11 of the instant application under 35 U.S.C § 102(f) as well as the cited art. I am providing this Declaration for the purpose of assisting the Examiner in evaluating the correct inventorship for the claimed methods of the instant invention.

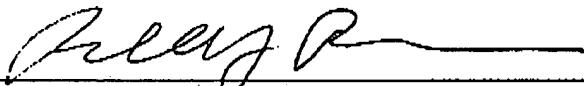
OCT-18-2004 11:09

P.03/03

Application No. 09/864,930
Declaration of Ronald J. Berenson, M.D.

3. The inventorship of the instant application is correct in that the cited references disclose anti-CD3 and anti-CD28 antibodies attached to the same bead and methods for using the beads for the treatment of cancer and infectious disease such as HIV, subject matter invented by Carl June and Craig Thompson. However, the cited references do not teach methods for restoring or enhancing immune function in individual with artificially induced immunosuppression wherein the restoring comprises an increase in neutrophils. This invention was conceived by me at Xcyte Therapies with no contribution by Drs. June and Thompson.

4. The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful, false statements, and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.



Ronald J. Berenson, M.D.

10/15/04
Date

522858_1.DOC